

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

JODY SMITH,

Plaintiff,

v.

ALVIN B. PARKER and  
PREMIER, LLC,

Defendants.

CIVIL ACTION FILE NO.:

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**NOTICE OF REMOVAL**

**TO:** Judges of the United States District Court  
Northern District of Georgia, Atlanta Division

Pursuant to 28 U.S.C. § 1441 *et seq.*, Defendants Alvin B. Parker and Premier, LLC (hereinafter “these Defendants”) hereby remove the civil action captioned *Jody Smith v. Alvin B. Parker and Premier, LLC*, State Court of Douglas County, Civil Action File No. 23SV00478 from the State Court of Douglas County, Georgia, to the United States District Court for the Northern District of Georgia, Atlanta Division. Removal is based upon the following:

### **Removal Based on Diversity Jurisdiction**

1. This Court has original jurisdiction of this matter pursuant to 28 U.S.C. § 1332 and this matter may be removed to this Court under 28 U.S.C. §§ 1441 and 1446.

### **Description of the Action**

2. On May 5, 2023, Plaintiff filed a Complaint against these Defendants alleging negligence related to a motor vehicle accident that occurred on or about February 14, 2023, in Douglas County, Georgia. *See generally*, Plaintiff's Complaint (Exhibit "A").

### **Consent for Removal**

3. The procedure for removing a case to Federal Court is codified in 28 U.S.C. § 1446 and requires that "all defendants who have been properly joined and served" consent to the removal. 28 U.S.C. § 1446(b)(2)(A) (emphasis added); *Cook v. Randolph County, Ga.*, 573 F.3d 1143, 1150 (11th Cir. 2009); *Tri-Cities Newspaper, Inc. v. Tri-Cities Printing Pressmen and Assistants' Local 349*, 427 F.2d 325, 326-27 (5th Cir. 1970).

4. These Defendants consent to the removal of this Action through undersigned counsel.

5. These Defendants, which are the only defendants properly joined and served within the meaning of 28 U.S.C. § 1446, file the Notice of Removal of this Action.

### **The Amount in Controversy Requirement**

6. In diversity cases, 28 U.S.C. § 1332(a) requires that the matter in controversy exceed the sum or value of \$75,000.00.

7. In Plaintiff's Complaint, he seeks to recover damages for significant personal injury, unspecified medical expenses, mental and physical pain and suffering, emotional distress, loss of enjoyment of life, an inability to lead a normal life and unspecified future medical expenses. *See* Plaintiff's Complaint ¶¶ 14 and 17. Plaintiff's Complaint is silent as to the amount of damages sought.

8. Plaintiff has not made any demand to these Defendants to settle the case as of the date of this filing.

9. To discover whether the amount in controversy is met, Defendant Premier, LLC served discovery in the State Court of Douglas County requesting that Plaintiff "admit that the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, within the meaning of 28 U.S.C. Section 1332(a)" and "admit that you claim an award of damages in excess of \$75,000 as a result of

the Accident in this lawsuit”. *See* Plaintiff’s Responses to Defendant Premier’s Request for Admissions to Plaintiff, at Request Nos. 22 and 24, attached as Exhibit “B”. Plaintiff’s responses to both of these Requests were “ADMIT.”

10. Thus, the amount in controversy has been established by a preponderance of the evidence pursuant to 28 U.S.C. § 1446(c)(2)(A)-(B) as shown by Plaintiff’s Responses to Request for Admissions.

### **The Diversity of Citizenship Requirement**

11. For diversity jurisdiction under 28 U.S.C. § 1332(a)(1), the parties must be citizens of different states.

12. Upon information and belief, Plaintiff is a resident and citizen of the State of Georgia and is entirely diverse from these Defendants. Plaintiff’s Complaint does not allege her citizenship. *See* Complaint, *void*. According to the police report, Plaintiff is a resident of Lithia Springs, Georgia. *See* Motor Vehicle Crash Report, attached as Exhibit “C”. These Defendants have no information indicating Plaintiff is a citizen of any state other than Georgia.

13. Defendant Alvin B. Parker is a resident and citizen of the State of Alabama and is entirely diverse from Plaintiff. Plaintiff’s Complaint ¶ 2; Defendants’ Answer ¶ 2, attached as Exhibit “D”.

14. Defendant Premier, LLC is a foreign limited liability company with its state of incorporation and principal place of business being the State of Alabama. Defendant Premier, LLC's only members are Dwight Lamb and Renae Lamb, who are both citizens of Alabama. Defendant Premier, LLC is therefore a citizen of Alabama and is entirely diverse from Plaintiff. Plaintiff's Complaint ¶ 6; Defendants' Answer ¶ 6. Defendant Premier, LLC is entirely diverse from Plaintiff.<sup>1</sup> See also Alabama Secretary of State at Exhibit "E".

### **Compliance with Deadline for Removal**

15. Pursuant to 28 U.S.C. §1446(b)(3), "if the case stated by the initial pleading is not removable, a notice of removal may be filed within 30 days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may be first ascertained that the case is one which is or has become removable."

16. Here, no amount was prayed for in Plaintiff's Complaint. *See generally* Complaint. Furthermore, no demand ever made of these Defendants prior to the filing of the Complaint.

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<sup>1</sup> Officer Robert Grant (#0508) incorrectly listed the address of Premier, LLC as 1871 Bexar Ave East Alpharetta, GA 30005. The correct address is 1871 Bexar Avenue East Hamilton, AL 35570. Said correct address is listed in the Commercial Motor Vehicles Only section of the motor vehicle accident report. For further clarification on Premier's correct address see Exhibit E (Alabama Secretary of State).

17. These Defendants had no knowledge that the amount in controversy exceeded the jurisdictional threshold contained in 28 U.S.C. § 1332(a) until receipt of Plaintiff's Responses to Defendant Premier, LLC's Request for Admissions on August 18, 2023. *See* Plaintiff's Responses to Defendant Premier, LLC's Request for Admissions, at Response Nos. 22 and 24.

18. These Defendants have initiated removal within 30 days of receipt of a paper indicating that the amount in controversy requirement was met and the case had become removable. Based on 28 U.S.C. §1446(b)(3) this Notice of Removal is timely filed.

### **The State Court Proceeding**

19. The state court proceeding is identified as follows: *Jody Smith v. Alvin B. Parker and Premier, LLC* State Court of Douglas County, Civil Action File No. 23SV00478. A Notice of this Removal will be filed with the State Court of Douglas County upon filing of this Notice of Removal pursuant to 28 U.S.C. § 1446(d).

### **All State-Court Documents**

20. Pursuant to 28 U.S.C. § 1446(a), the following state-court filings are attached hereto: Plaintiff's Complaint (Exhibit "A"); Defendants' Answer to Plaintiff's Complaint (Exhibit "D"); Summons to Defendant Parker (Exhibit "F"); Summons to Defendant Premier, LLC (Exhibit "G"); Affidavit of Service on

Defendant Parker (Exhibit “H”); Affidavit of Service on Premier, LLC (Exhibit “I”); Written discovery requests served by Plaintiff and these Defendants have not been attached for the sake of brevity.

**WHEREFORE**, these Defendants exercise their right under the provisions of 28 U.S.C. § 1441, *et seq.* to remove this action from the State Court of Douglas County, Georgia, to the United States District Court for the Northern District of Georgia, Atlanta Division.

This 30<sup>th</sup> day of August, 2023.

**NALL & MILLER, LLP**

By: /s/ Quinn Curtis Bennett  
**QUINN CURTIS BENNETT**  
Georgia Bar No. 356087  
**SAREENA R. BEASLEY**  
Georgia Bar No. 454829

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***ATTORNEYS FOR DEFENDANTS  
ALVIN B. PARKER and PREMIER,  
LLC.***

**CERTIFICATE OF COMPLIANCE WITH N.D. GA. LOCAL RULE 5.1B**

This is to certify that this pleading was created in Times New Roman 14-point font in accordance with Northern District of Georgia Local Rule 5.1B.

This 30<sup>th</sup> day of August, 2023.

**NALL & MILLER, LLP**

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***ATTORNEYS FOR DEFENDANTS***  
***ALVIN B. PARKER and PREMIER,***  
***LLC.***

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day filed the within and foregoing **NOTICE OF REMOVAL (Federal)** with the Clerk of Court in this matter and served a true copy of same by First Class U.S. Mail, proper postage prepaid, to counsel of record listed below.

Trevor Becton, Esq.  
MORGAN & MORGAN ATLANTA, PLLC  
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*Attorney for Plaintiff*

This 30<sup>th</sup> day of August, 2023.

**NALL & MILLER, LLP**

By: /s/ Quinn Curtis Bennett  
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Georgia Bar No. 356087  
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***LLC.***